

Senate

Record of Committee Proceedings

Committee on Privacy, Electronic Commerce and Financial Institutions

Senate Bill 207

Relating to: the release of personally identifiable information by businesses and their employees and providing a penalty.

By Senator Erpenbach; cosponsored by Representative Schneider, Black, Staskunas, F. Lasee, Bock, Musser, Plouff, J. Lehman, Kreuser, Lassa, Gunderson.

July 6, 1999

Referred to Committee on Privacy, Electronic Commerce and Financial Institutions.

August 24, 1999

PUBLIC HEARING HELD

Present: (4) Senators Erpenbach, Jauch, Plache and Rude.
Absent: (1) Senator Fitzgerald.

Appearances for

- Nathaniel Harewell, self
- Senator Jon Erpenbach
- Representative Marlin Schneider
- Jim Rabbitt, DATCP

Appearances against

- Fred Hebblewhite, Copps Corporation
- Michelle Kussow, WI Grocers Assn.

Appearances for Information Only

- None.

Registrations for

- Representative Jim Kreuser

Registrations against

- Ray Carey, American Express

March 8, 2000

EXECUTIVE SESSION (POLLING)

Moved by Senator Erpenbach that **Senate Amendment LRBs0282/3** be recommended for introduction and adoption.

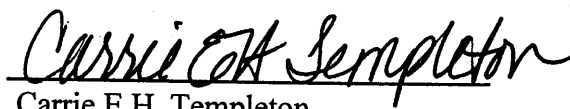
Ayes: (3) Senators Erpenbach, Jauch and Plache.
Noes: (2) Senators Rude and Fitzgerald.
Absent: (0) None.

INTRODUCTION AND ADOPTION RECOMMENDED, Ayes 3,
Noes 2, Absent 0

Moved by Senator Erpenbach that **Senate Bill 207** be recommended for passage as amended.

Ayes: (3) Senators Erpenbach, Jauch and Plache.
Noes: (2) Senators Rude and Fitzgerald.
Absent: (0) None.

PASSAGE AS AMENDED RECOMMENDED, Ayes 3, Noes 2,
Absent 0


Carrie E.H. Templeton
Committee Clerk

Senate

SB-207

Committee Report

The committee on Privacy, Electronic Commerce and Financial Institutions, reports and recommends:

Assembly Bill 267

Relating to: the use and regulation of electronic signatures, providing an exemption from emergency rule procedures and granting rule-making authority.

By Representative Hutchison, Jensen, Huebsch, F. Lasee, Meyer, Sykora, Kelso, Owens, Musser, Albers, Kaufert, Olsen, Montgomery, Vrakas; cosponsored by Senator Rude.

INTRODUCTION AND ADOPTION OF SENATE AMENDMENT LRBs0312/2, Ayes 5, Noes 0, Absent 0

Ayes: (5) Senators Erpenbach, Jauch, Plache, Rude and Fitzgerald.

Noes: (0) None.

Absent: (0) None.

CONCURRENCE AS AMENDED RECOMMENDED, Ayes 5, Noes 0, Absent 0

Ayes: (5) Senators Erpenbach, Jauch, Plache, Rude and Fitzgerald.

Noes: (0) None.

Absent: (0) None.

Senate Bill 207

Relating to: the release of personally identifiable information by businesses and their employees and providing a penalty.

By Senator Erpenbach; cosponsored by Representative Schneider, Black, Staskunas, F. Lasee, Bock, Musser, Plouff, J. Lehman, Kreuser, Lassa, Gunderson.

INTRODUCTION AND ADOPTION OF SENATE AMENDMENT LRBs0282/3, Ayes 3, Noes 2, Absent 0

Ayes: (3) Senators Erpenbach, Jauch and Plache.

Noes: (2) Senators Rude and Fitzgerald.

Absent: (0) None.

PASSAGE AS AMENDED RECOMMENDED, Ayes 3, Noes 2,
Absent 0

Ayes: (3) Senators Erpenbach, Jauch and Plache.

Noes: (2) Senators Rude and Fitzgerald.

Absent: (0) None.

Senate Bill 248

Relating to: requiring certain disclosures in advertising per-minute rates for long distance service and providing a penalty.

By Senator Jauch, Erpenbach, Plache, Darling, Roessler; cosponsored by Representative Wasserman, Hutchison, Schneider, Musser, Miller, Black, Bock, Gunderson, Sinicki, Williams, Berceau, Reynolds.

INTRODUCTION AND ADOPTION OF SENATE AMENDMENT
LRBa1325/1, Ayes 5, Noes 0, Absent 0

Ayes: (5) Senators Erpenbach, Jauch, Plache, Rude and Fitzgerald.

Noes: (0) None.

Absent: (0) None.

PASSAGE AS AMENDED RECOMMENDED, Ayes 4, Noes 1,
Absent 0

Ayes: (4) Senators Erpenbach, Jauch, Plache and Rude.

Noes: (1) Senator Fitzgerald.

Absent: (0) None.

Senate Bill 379

Relating to: prohibiting the investment board from making certain investments.

By Senator Moore, George, Erpenbach; cosponsored by Representative Morris-Tatum, Miller, Colon, Turner, Pocan, Young, Bock, Coggs, Berceau, Richards, Williams, Riley.

PASSAGE RECOMMENDED, Ayes 3, Noes 2, Absent 0

Ayes: (3) Senators Erpenbach, Jauch and Plache.

Noes: (2) Senators Rude and Fitzgerald.

Absent: (0) None.



Senator Jon Erpenbach
Chair

HEARING PROCEDURE March 8, 2000

1. **Call to Order:** "The Senate Committee on Privacy, Electronic Commerce and Financial Institutions will come to order. Will members please take your seats."
2. **Call the roll:** "We will dispense with the calling of the roll and the clerk will note presence of Senators as they arrive." Carrie will fill in roll sheet as Senators arrive.
3. **Welcome and Announce Purpose of Hearing**
"Welcome members of the public, legislators and staff."

"The purpose of this hearing is to hold a public hearing and executive session. We will receive public testimony and then hold an executive session on AB 267, SB 207 and SB 248."
4. **Operation of the Hearing:** "If you wish to testify to the Committee, please fill out a hearing slip and return it to the Senate messenger." Point out messenger. "If you wish to simply register for a bill, fill out a slip and give it to the messenger as well."
5. **Order of Speakers:** "To the extent possible, I will alternate between speakers with different points of view on the subjects before us."
6. **Begin the hearing:**
 - a. Carrie will sort slips by topic;
 - b. Jon calls the first speaker, call Legislators first;
 - c. When speaker is through, ask if committee members have questions;
 - d. When last slip is given , let everyone know that this is the last slip, anyone who wishes to speak on the bill should fill out a slip right now.

Senate Bill 207 – Substitute Amendment

The purpose of SB 207 is to guarantee that customers who sign up to receive discounts have a clear understanding of potential re-releasing of the personal information they turned over to the business. The sale of information is big business; consumers should be able to make informed decisions about the release of their personal information.

All this bill does is require disclosure – it doesn't prevent a business from selling information – it just requires they let their customers know what they intend to do with personal information.

I have drafted a substitute amendment to this bill to satisfy some of the concerns of the grocery industry and to take into account recommendations from the Attorney General.

The substitute amendment

- Adds an effective date of 9 months after the bill is signed by the Governor in order to accommodate compliance.
- Grandfathers all current customers/members – so only new sign ups would be effected by the bill.
- If there is a merger or buy out by another company, members do not need to be re-informed regarding disclosures, unless the disclosure policy of the new company is different than the former agreement.
- It also clarifies that violations will be treated on a per person basis. Each member violation is a violation under the law.
- The sub also adds penalty enhancers for targeting the elderly (like the consumer act) and requires the disclosure meet consumer act specifications on typeset, 12 point type.

This amendment addresses nearly all of the concerns of the grocer industry but still achieves its goal of disclosure.

If a business is going to collect information in exchange for discounts to the customer, and then resell that information, customers should be able to make informed decisions about releasing their personal information.



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBs0282/3
MGG&RNK:wlj:hmh

SENATE SUBSTITUTE AMENDMENT,
TO 1999 SENATE BILL 207

1 **AN ACT** *to amend* 134.95 (2); and *to create* 134.44 of the statutes; **relating to:**
2 the transfer for consideration of personally identifiable information obtained
3 by businesses in operating programs that offer customers discounts on
4 purchases or other benefits and providing a penalty.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

5 **SECTION 1.** 134.44 of the statutes is created to read:

6 **134.44 Transfers of personally identifiable information. (1)**

7 **DEFINITIONS.** In this section:

8 (a) "Application form" means a form that a customer must complete in order
9 to participate in a program that is operated by a business for profit to offer customer
10 discounts.

11 (b) "Personally identifiable information" means the name of an individual or
12 other information that can be used to identify that individual.

1 (c) "Predecessor business" means a business for profit that sells or otherwise
2 transfers ownership of the business to another business for profit.

3 (d) "Successor business" means a business for profit that purchases or
4 otherwise acquires ownership of another business for profit.

5 (e) "Transfer" means to sell, rent, trade or otherwise transfer for consideration.

6 (2) REQUIREMENTS FOR TRANSFERS. (a) No person who is engaged in or employed
7 by a business for profit, and who requests personally identifiable information from
8 a customer on an application form, may transfer the personally identifiable
9 information to any other person unless the application form contains a written
10 disclosure that states all of the following:

11 1. The types of personally identifiable information that may be transferred.

12 2. The types of 3rd parties to whom the personally identifiable information may
13 be transferred.

14 3. The purposes for which the personally identifiable information may be
15 transferred.

16 (b) The written disclosure under par. (a) shall be printed in capital and
17 lowercase letters of not less than 12-point boldface type.

18 (3) RETRANSFER OF INFORMATION. (a) No recipient to whom personally
19 identifiable information from an application form is transferred may transfer the
20 personally identifiable information to another person if the recipient knows or
21 reasonably should know that the person who transferred the information failed to
22 comply with sub. (2).

23 (b) Paragraph (a) does not apply to a successor business that receives
24 personally identifiable information from a predecessor business.

1 (c) Notwithstanding par. (b), if a successor business may release personally
2 identifiable information of a different type, to different types of 3rd parties or for
3 different purposes than those specified on the predecessor business' application
4 forms under par. (a), the successor business must advise those of the predecessor
5 business' customers about whom it received personally identifiable information of
6 the nature of those differences and provide the customers with a means by which the
7 customers may request that the customers' personally identifiable information not
8 be released to any 3rd party. If a customer makes such a request, the successor
9 business may not release the customer's personally identifiable information to any
10 3rd party.

11 (4) Any person who violates sub. (2) or (3) is subject to a forfeiture of not more
12 than \$100 for each violation. For purposes of counting violations under this
13 subsection, the violations by a person under sub. (2) or (3) as they relate to each
14 customer constitute a separate violation.

15 **SECTION 2.** 134.95 (2) of the statutes is amended to read:

16 134.95 (2) SUPPLEMENTAL FORFEITURE. If a fine or a forfeiture is imposed on a
17 person for a violation under s. 100.171, 100.173, 100.174, 100.175, 100.177, 134.44,
18 134.71, 134.72 or 134.87 or ch. 136 or a rule promulgated under these sections or that
19 chapter, the person shall be subject to a supplemental forfeiture not to exceed
20 \$10,000 for that violation if the conduct by the defendant, for which the fine or
21 forfeiture was imposed, was perpetrated against an elderly person or disabled person
22 and if any of the factors under s. 100.264 (2) (a), (b) or (c) is present.

23 **SECTION 3. Effective date.**

3 **(END)**

Erpenbach

JON ERPENBACH

S T A T E S E N A T O R

March 8, 2000

To: Members, Senate Committee on Privacy, Electronic Commerce and Financial Institutions

From: Senator Jon Erpenbach

Re: Paper Ballot on AB 267, SB 207, SB 248, SB 379

Attached is the paper ballot for the bills mentioned above and their respective amendments.

Dick Sweet and Dan Schmidt of the Legislative Council have indicated they are available this afternoon and tomorrow morning should you have questions regarding any of the bills or their amendments.

Also, please feel free to contact Carrie Templeton of my staff at 6-6670 if you have any questions.

Please return the ballot to my office no later than noon tomorrow, March 9, 2000. Thank you.

SB-207

Senate Committee on Privacy, Electronic Commerce and Financial Institutions

PAPER BALLOT

March 8, 2000

AB 267

Recommend adoption of the Committee's Senate Substitute Amendment (LRBs0312/2) to Assembly Bill 267:

X

aye

no

Recommend passage of Assembly Bill 267 as amended:

X

aye

no

SB 207

Recommend adoption of Senator Erpenbach's Senate Substitute Amendment (LRBs0282/3) to Senate Bill 207:

X

aye

no

Recommend passage of Senate Bill 207 as amended:

X

aye

no

SB 248

Recommend adoption of Senator Jauch's Senate Simple Amendment (LRBa1325/1) to Senate Bill 248:

X

aye

no

Recommend passage of Senate Bill 248 as amended:

X

aye

no

SB 379

Recommend passage of Senate Bill 379:

X

aye

no

Signature

Please return by Noon on March 9, 2000 to Senator Jon Erpenbach's Office. Thank you.

Senate Committee on Privacy, Electronic Commerce and Financial Institutions

PAPER BALLOT

March 8, 2000

AB 267

Recommend adoption of the Committee's Senate Substitute Amendment (LRBs0312/2) to Assembly Bill 267:

X aye

_____ no

Recommend passage of Assembly Bill 267 as amended:

X aye

_____ no

SB 207

Recommend adoption of Senator Erpenbach's Senate Substitute Amendment (LRBs0282/3) to Senate Bill 207:

_____ aye

X no

Recommend passage of Senate Bill 207 as amended:

_____ aye

X no

SB 248

Recommend adoption of Senator Jauch's Senate Simple Amendment (LRBa1325/1) to Senate Bill 248:

X aye

_____ no

Recommend passage of Senate Bill 248 as amended:

_____ aye

X no

SB 379

Recommend passage of Senate Bill 379:

_____ aye

X no

Scott Fitzgerald
Signature

Please return by Noon on March 9, 2000 to Senator Jon Erpenbach's Office. Thank you.

Senate Committee on Privacy, Electronic Commerce and Financial Institutions

PAPER BALLOT

March 8, 2000

AB 267

Recommend adoption of the Committee's Senate Substitute Amendment (LRBs0312/2) to Assembly Bill 267:

 X aye no

Recommend passage of Assembly Bill 267 as amended:

 X aye no

SB 207

Recommend adoption of Senator Erpenbach's Senate Substitute Amendment (LRBs0282/3) to Senate Bill 207:

 X aye no

Recommend passage of Senate Bill 207 as amended:

 X aye no

SB 248

Recommend adoption of Senator Jauch's Senate Simple Amendment (LRBa1325/1) to Senate Bill 248:

 X aye no

Recommend passage of Senate Bill 248 as amended:

 X aye no

SB 379

Recommend passage of Senate Bill 379:

 X aye no

 Robert J. Jauch
Signature

Please return by Noon on March 9, 2000 to Senator Jon Erpenbach's Office. Thank you.

Senate Committee on Privacy, Electronic Commerce and Financial Institutions

PAPER BALLOT

March 8, 2000

AB 267

Recommend adoption of the Committee's Senate Substitute Amendment (LRBs0312/2) to Assembly Bill 267:

 X aye

 no

Recommend passage of Assembly Bill 267 as amended:

 X aye

 no

SB 207

Recommend adoption of Senator Erpenbach's Senate Substitute Amendment (LRBs0282/3) to Senate Bill 207:

 X aye

 no

Recommend passage of Senate Bill 207 as amended:

 X aye

 no

SB 248

Recommend adoption of Senator Jauch's Senate Simple Amendment (LRBa1325/1) to Senate Bill 248:

 X aye

 no

Recommend passage of Senate Bill 248 as amended:

 X aye

 no

SB 379

Recommend passage of Senate Bill 379:

 X aye

 no

Kim Olache

Signature

Please return by Noon on March 9, 2000 to Senator Jon Erpenbach's Office. Thank you.

Senate Committee on Privacy, Electronic Commerce and Financial Institutions

PAPER BALLOT

March 8, 2000

AB 267

Recommend adoption of the Committee's Senate Substitute Amendment (LRBs0312/2) to Assembly Bill 267:

☒ aye

☐ no

Recommend passage of Assembly Bill 267 as amended:

☒ aye

☐ no

SB 207

Recommend adoption of Senator Erpenbach's Senate Substitute Amendment (LRBs0282/3) to Senate Bill 207:

☐ aye

☒ no

Recommend passage of Senate Bill 207 as amended:

☐ aye

☒ no

SB 248

Recommend adoption of Senator Jauch's Senate Simple Amendment (LRBa1325/1) to Senate Bill 248:

☒ aye

☐ no

Recommend passage of Senate Bill 248 as amended:

☒ aye


☐ no

SB 379

Recommend passage of Senate Bill 379:

☐ aye

☒ no



Signature

Please return by Noon on March 9, 2000 to Senator Jon Erpenbach's Office. Thank you.